



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Hon. Clayton Bray
County Attorney
Sutton County
Sonora, Texas

Dear Sir:

Opinion No. O-7501

Re: Deputy County Surveyor not
required to have license
and his authority.

We have received your request which reads as follows:

"We have before the Commissioners' Court of this county a situation wherein the duly elected and qualified county surveyor has become incapacitated from an accident and he desires to qualify his son as his Deputy, although the proposed Deputy does not have a surveyor's license.

"The question I propound for your decision is: Does a Deputy County Surveyor, otherwise qualified, have to be a licensed surveyor under the Surveyor's Licensing Act, and, if he does not have to have a license, may he file his field notes, etc., in the General Land Office without a seal?"

This department has previously held that a County Surveyor would not have to be a licensed surveyor, (Opinion No. O-3940 which we enclose). There are no special qualifications for a Deputy County Surveyor. Article 5285 reads as follows:

"Each County Surveyor may appoint a Deputy Surveyor as he may deem necessary, and shall administer his official oath and take his bond in the sum of not less than Five Hundred Dollars (\$500) nor more than Ten Thousand Dollars (\$10,000), conditioned for the faithful performance of the duties of his office. The Deputy may do all acts authorized or required by law to be done by the County Surveyor."

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The last sentence gives the Deputy County Surveyor the power and the right to do all acts authorized or required by law to be done by the County Surveyor.

The Deputy County Surveyor could file his field notes in the General Land Office without a seal, but I want to call your attention to Article 5300, Section 9, wherein it is stated:

"Sec. 9. When the survey has been made by a Deputy, the County Surveyor shall certify officially that he has examined the field notes, has found them correct, and that they are duly reported, giving book and page of record."

Therefore, you are advised that the Deputy County Surveyor does not have to be licensed and may file his field notes in the General Land Office but with the requirement that they be certified to by the County Surveyor as required by Article 5300. However, we call your attention to Article 432 of the Penal Code. It is our opinion that a County Surveyor could not appoint his son Deputy because it would violate the nepotism statute.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By


Jno. C. Knorpp
Assistant

JCK:djm

Enclosure

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APPROVED
OPINION
COMMITTEE
BY BUTZ
CHAIRMAN